

## 21 C.J.S. Courts § 348

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### Courts

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### X. Clerks of Courts

#### E. Deputies and Assistants

## § 348. Civil liability and criminal responsibility

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  6

**A deputy clerk of court is liable to the clerk for wrongful acts done under the color of the clerk's office which result in the principal clerk being held responsible in damages.**

A deputy clerk of court is liable to the clerk for wrongful acts done under the color of the clerk's office which result in the principal clerk being held responsible in damages.<sup>1</sup> A deputy clerk may also be held personally liable to a third person for an act of misfeasance or the doing of some positive wrongful act under color of his or her authority.<sup>2</sup> A deputy clerk is, however, immune from liability for injuries arising out of judicial acts,<sup>3</sup> but judicial or quasi-judicial immunity will not protect the deputy from liability for allegedly negligent ministerial acts.<sup>4</sup>

### ***Criminal responsibility.***

A statute making it a misdemeanor for any officer required to keep a court docket or to keep an account of fees or fines, and to pay over the same, to falsify such docket or account, is applicable to a deputy clerk of court,<sup>5</sup> as is a statute making the theft of records a crime.<sup>6</sup>

A bonding agency is not liable on its bond when the deputy clerk commits a criminal act.<sup>7</sup>

## CUMULATIVE SUPPLEMENT

**Cases:**

Deputy state court clerk's alleged failure to timely transmit to jail a judge's court order for detainee's mental health treatment for period of more than two months after its issuance was sufficient to plausibly support inference that clerk's failure was proximate cause of detainee's death in the jail, notwithstanding clerk's alleged transmission of the order about three weeks before detainee's death, as required to state claim against that deputy clerk for negligence and gross negligence, under Virginia law, in action brought by estate of detainee. [Adams v. NaphCare, Inc.](#), 240 F. Supp. 3d 438 (E.D. Va. 2017).

Office of Superior Court clerk was not legal entity capable of being sued by plaintiff arising out of clerk's purported failure to record proper date that he received discharge upon successful completion of first offender status, under First Offender Act. [Ga. Code Ann. § 42-8-60 et seq. Seibert v. Alexander](#), 351 Ga. App. 446, 829 S.E.2d 473 (2019).

**[END OF SUPPLEMENT]**

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**Footnotes**

- 1 Iowa—[Moore v. McKinley](#), 60 Iowa 367, 14 N.W. 768 (1883).
- 2 Ark.—[Fidelity & Deposit Co. of Md. v. Cowan](#), 184 Ark. 75, 41 S.W.2d 748 (1931).  
La.—[Mills v. Ganuchau](#), 416 So. 2d 361 (La. Ct. App. 4th Cir. 1982).
- 3 Ky.—[City of Louisville v. Bergel](#), 610 S.W.2d 292 (Ky. 1980).
- 4 Utah—[Connell v. Tooele City](#), 572 P.2d 697 (Utah 1977).  
**A.L.R. Library**  
[Applicability of judicial immunity to acts of clerk of court under state law](#), 34 A.L.R.4th 1186.
- 5 Iowa—[State v. Hanlin](#), 134 Iowa 493, 110 N.W. 162 (1907).
- 6 Alaska—[Larson v. State](#), 564 P.2d 365 (Alaska 1977).
- 7 Ky.—[Kentucky Finance Co. v. Spradlin](#), 717 S.W.2d 843 (Ky. Ct. App. 1986).